

REMARKS/ARGUMENTS

Claims 2, 10, 12, 13, 20, 22-24, 39, 40 and 42-44 are pending in this application. By this Amendment, claims 2, 10, 12, and 39 are amended. The amendments introduce no new matter. Claims 11, 28-38 and 41 are canceled without prejudice to, or disclaimer of, the subject matter recited in those claims. Reconsideration of the application based on the above amendments and the following remarks, in addition to all of the remarks included in Applicant's December 5, 2008 Request for Reconsideration, is respectfully requested.

Applicant appreciates the courtesies extended to Applicant's representative by Examiner Shrestha during the February 23, 25, 26 and 27 telephone interviews. Applicant's summary of the substance of the telephone interviews are contained in the following remarks.

Provisional Nonstatutory Double Patenting Rejection

The Office Action provisionally rejects claims 2, 10-13, 20, 22-24, and 28-44 on the grounds of nonstatutory obviousness-type double patenting over various claims of copending Application Nos. 09/981,626; 09/981,645; and 09/981,637. It is noted that the provisional rejection does not require the filing of a terminal disclaimer or response unless and until the claims in one or more of the present and/or cited applications actually issues, or are in condition for allowance, and the provisional rejection is the sole remaining rejection in the Application. Therefore, Applicant will respond to any further non-statutory double patenting rejection when any such rejection is no longer provisional.

Rejection Under 35 U.S.C. §103(a)

The Office Action rejects claims 2, 10-13, 20, 22-24 and 28-44 under 35 U.S.C. §103(a) over U.S. Patent No. 7,069,234 to Cornelius *et. al.* (hereinafter "Cornelius") in view of U.S. Patent Application Publication No. 2002/0156656 to Harrell *et. al.* (hereinafter "Harrell"). This rejection is respectfully traversed.

Applicant maintains each of the previously submitted arguments regarding the pending rejection. Without conceding the interpretation, or application, of the applied references, and solely to advance prosecution of this application, claims 2 and 39 are amended. As agreed during the February 23, 25, 26 and 27 telephone interviews with the Examiner, the applied references cannot reasonably be considered to have suggested such combinations of features. Applicant appreciates this agreement by the Examiner.

For at the least the above reasons, the applied references cannot reasonably be considered to have suggested the combinations of features positively recited in independent claims 2 and 39. Additionally, claims 10, 12, 13, 20, 22-24, 40 and 42-44 would not have been reasonably suggested by the applied references for at least the respective dependence of these claims, directly or indirectly, on an allowable base claim, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 2, 10, 12, 13, 20, 22-24, 39, 40 and 42-44 are respectfully requested.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a normal Notice of Allowance at an early date is respectfully requested.


Appl. No. 09981642
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Reply to Office Action of August 6, 2008

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Attorney Docket No.: 027392-000440US

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 202-481-9900.

The Commissioner is authorized to charge any fees due or credit any overpayment to the Deposit Account of Townsend and Townsend and Crew LLP, Deposit Account No. 20-1430.

Respectfully submitted,


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